

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kevin O'Connor (Int)	Team: Team # 2	CCRB Case #: 201307798	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 08/16/2013 9:25 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 2/16/2015	EO SOL 2/16/2015	
Date/Time CV Reported Fri, 08/16/2013 9:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 08/23/2013 11:27 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
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§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Timothy Cecchini	00613	943068	075 PCT
2. POM John Diaz	03864	948884	075 PCT
3. POM Alfred Reichenbach	30574	935765	075 PCT
4. Officers			075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jared Dietzel	30858	946469	075 PCT
2. SGT Dhendup Chadotsang	02262	945577	075 PCT
3. POM Derick Russ	04555	949590	075 PCT
4. POM Gregory Garraputa	30078	930201	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Timothy Cecchini	Off. Language: Sgt. Timothy Cecchini made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)
B.SGT Timothy Cecchini	Force: Sgt. Timothy Cecchini tasered § 87(2)(b)	§ 87(2)(b)
C.POM Alfred Reichenbach	Force: PO Alfred Reichenbach used pepper spray against § 87(2)(b)	§ 87(2)(b)
D. Officers	Force: Officers struck § 87(2)(b) with asps.	§ 87(2)(b)
E.POM John Diaz	Force: PO John Diaz struck § 87(2)(b) with an asp.	§ 87(2)(b)
F.SGT Timothy Cecchini	Force: Sgt. Timothy Cecchini used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 16, 2013, Sgt. Timothy Cecchini of the 75th Precinct called the Internal Affairs Bureau and filed a complaint on behalf of § 87(2)(b) (IAB Log #2013-35258) (encl.4A-C). On August 30, 2013, § 87(2)(b) filed a complaint on behalf of § 87(2)(b) through the online website of the CCRB (encl. 5A-E)

On August 16, 2013, at approximately 9:25 a.m., officers, including Sgt. Cecchini, responded to a reported assault at § 87(2)(b) in Brooklyn involving § 87(2)(b). The following allegations resulted:

- **Allegation A- Offensive Language: Sgt. Timothy Cecchini made remarks to § 87(2)(b) based upon race.**
§ 87(2)(g)
§ 87(2)(g)
- **Allegation B- Force: Sgt. Timothy Cecchini tasered § 87(2)(b)**
- **Allegation C- Force: PO Alfred Reichenbach used pepper spray against § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
- **Allegation D- Force: Officers struck § 87(2)(b) with asps.**
§ 87(2)(g)
§ 87(2)(g)
- **Allegation E-Force: PO John Diaz struck § 87(2)(b) with an asp.**
§ 87(2)(g)
§ 87(2)(g)
- **Allegation F- Force: Sgt. Timothy Cecchini used physical force against § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)

This case was not eligible for mediation. This case was initially assigned to Inv. Patrick Harrison. Upon his resignation, it was reassigned to Inv. Kevin O'Connor on November 8, 2013.

Results of Investigation

§ 87(2)(b) Lobby Surveillance Footage

Video footage of the incident was received from § 87(2)(b) on November 22, 2013. There is no audio of the recording, which is approximately ten minutes in length.

PO Alfred Reichenbach and PO Gregory Garraputa enter the lobby at the 1:28 mark and proceed to speak with § 87(2)(b) until the 2:07 mark. At 2:07 Sgt. Cecchini, PO John Diaz, PO Jared Dietzel and PO Judy Beltre, enter the lobby. At 2:38, § 87(2)(b) enters the lobby and is placed against the door at 2:42. At 2:44, § 87(2)(b) puts his hands up and moves his right hand away at 2:47.

At 2:51, § 87(2)(b) uses his right arm to push off two of the officers. § 87(2)(b) and the officers proceed to struggle and move towards the right until § 87(2)(b) is brought to the ground at 2:57. At 3:21, § 87(2)(b) stands up with the officers on top of him, and PO Beltre attempts to grab his right arm at 3:29. § 87(2)(b) pulls it away. At 3:33, an object is seen falling over a table which appeared to have been in § 87(2)(b)'s possession beforehand.

At 3:35, Sgt. Cecchini is seen holding a taser while § 87(2)(b) is standing alone, away from the officers. At 3:39, Sgt. Cecchini shakes his left hand as if he were shocked or burned. At 3:40, § 87(2)(b) appears to pull off taser wires or string off of his shirt. At 3:45, PO Reichenbach approaches § 87(2)(b) and pepper-sprays him with a continuous discharge in the eyes and the back of the head until 3:51. § 87(2)(b) turns his back to PO Reichenbach to shield himself.

At 3:57, PO Garraputa swings his asp at § 87(2)(b) but § 87(2)(b) is out of the camera's focus. § 87(2)(b) throws a punch that misses at 4:00, and it appears his left hand is in handcuffs. At 4:03, § 87(2)(b) is struck in the left arm by an asp. PO Reichenbach swings his asp at § 87(2)(b)'s lower body and appears to miss. § 87(2)(b) walks toward the officers and they back up while PO Reichenbach is holding § 87(2)(b)'s right hand. § 87(2)(b) is struck in the left shoulder by a heavysset officer at 4:07. At 4:09, § 87(2)(b) reaches for an object and proceeds to swing an object at the officers several times. § 87(2)(b) is then pulled out of the camera's focus. At 4:31, § 87(2)(b) is brought to the floor, with approximately five officers on top of him.

At 4:53, § 87(2)(b) is repeatedly struck with asps in the back by PO Diaz and a second officer. § 87(2)(b) struggles on the floor until 5:21, when it appears an asp strikes him in the head. At 5:22, Sgt. Cecchini is standing on top of § 87(2)(b) and appears to be lifting his right foot up and down in a stomping motion above § 87(2)(b)'s head approximately nine times until 5:27 while holding onto a desk for balance. Sgt. Cecchini is pulled off of § 87(2)(b) by PO Diaz at 5:27.

§ 87(2)(b) is handcuffed without resistance until 6:01. At 7:15, an apparent pool of blood can be seen on the floor of the lobby. § 87(2)(b) is sat up and is eventually carried out of the building at 9:35, and appears to be bleeding from above his left eyebrow.

Victim: § 87(2)(b)

- § 87(2)(b) -old black man, 6'6" tall, 280 pounds, with black hair and brown eyes.
- § 87(2)(b)

Arrest Photo (Encl. 9)

In § 87(2)(b)'s arrest photo, several staples to the back of his head are visible. A small cut to his right eye is also visible.

Civilian Statement

§ 87(2)(b) was interviewed at the § 87(2)(b) on Rikers Island on September 11, 2013 (encl. 8A-D).

On August 16, 2013, at approximately 8:45 a.m., § 87(2)(b) got into an argument with § 87(2)(b) in the bedroom area of their homeless shelter, located at § 87(2)(b) in Brooklyn. The argument escalated into a physical altercation, during which § 87(2)(b) hit § 87(2)(b) in the head with a bottle, causing a laceration on the left side of § 87(2)(b)'s forehead. § 87(2)(b) was not injured during the altercation and called the police.

§ 87(2)(b) went to the restroom after the fight, and while inside the restroom, he was informed by the head of building security, § 87(2)(b) that police officers were at the front desk and wanted to ask him questions. § 87(2)(b) went downstairs and was met by six uniformed officers. PO1, identified via investigation as Sgt. Timothy Cecchini, was described as a white man in his late 40s, approximately 5'6" tall, with low-cut gray hair. PO2, identified via

investigation as PO John Diaz, was described as a white man in his late 40s or 50s, approximately 6' tall, 200 pounds, with short brown hair. PO3, identified via investigation as PO Judy Beltre, was described as a black woman in her late 30s, approximately 4'5 tall and 120 pounds. § 87(2)(b) solely described the remaining three officers as two Hispanic men and one black man.

§ 87(2)(b) put his hands up and began to turn around to face the door through which he had just entered. Sgt. Cecchini pushed § 87(2)(b) against the door, called him an "animal" and a "monkey," and told him to get against the wall and that he was going to search him.

§ 87(2)(b) took his right hand off the wall and began to turn around to ask Sgt. Cecchini why he was using racial slurs towards him. § 87(2)(b) was struck in the back of the head with an asp. § 87(2)(b) did not see which officer struck him with their asp. § 87(2)(b) was then shot in the back with a taser and received an electrical shock. § 87(2)(b) turned around and saw Sgt. Cecchini holding a taser, approximately four feet away. § 87(2)(b) pulled the taser prongs out of his body and walked toward the shelter management office.

The officers told the head of maintenance, § 87(2)(b) to lock § 87(2)(b) out of the office. Sgt. Cecchini, PO Diaz and PO Beltre started to hit § 87(2)(b) with their asps. § 87(2)(b) was struck in the legs, lower back, head, hands and arms a total of ten to fifteen times. § 87(2)(b) stated that he was struck in the head approximately three times. While being struck by the officers' asps, § 87(2)(b) reached into the office and picked up a stapler, which he threw at the officers. § 87(2)(b) did not know if the stapler hit any officer.

§ 87(2)(b) was then pepper-sprayed by an officer he could not see. § 87(2)(b) reacted to being pepper-sprayed by moving his torso around to prevent the officers from apprehending him. § 87(2)(b) denied attempting to punch or kick any officers. § 87(2)(b) was then struck in the orbital bone of his right eye by an officer he could not see. § 87(2)(b) began to bleed and his vision was affected. § 87(2)(b) was also struck in the side of his head by an asp.

§ 87(2)(b) exited the management office, hugged § 87(2)(b) and told him to give up and let the officers arrest him. § 87(2)(b) voluntarily lowered himself to his knees and placed his hands behind his head while saying he gave up. § 87(2)(b) was brought to the floor and while laying on the floor, was tasered a second time by an officer he could not see. § 87(2)(b) was then handcuffed. § 87(2)(b) denied resisting arrest while he was being handcuffed.

After he was handcuffed, § 87(2)(b) was carried out of the building and placed on the ground outside. An officer then stood on § 87(2)(b)'s back. § 87(2)(b) was later informed by § 87(2)(b) his case manager, that Sgt. Cecchini was the officer standing on his back, but § 87(2)(b) did not see which officer stood on his back. § 87(2)(b) felt the officer's feet striking his back, lower neck, arms and hands multiple times. Another officer that § 87(2)(b) could not see told the officer who was on his back, "Get off. You could kill him." The officer on his back then stepped off of § 87(2)(b).

As a result of this incident, § 87(2)(b) sustained a laceration to the back of his head which required eight staples, a laceration to his right eye that was treated with five stitches, and bruises to his arms, hands and legs.

Attempts to Obtain Signed HIPAA Forms

When § 87(2)(b) was interviewed at Rikers Island on September 11, 2013, he did not know his social security number and did not fill out the HIPAA forms necessary to request his medical records. Attempts to locate § 87(2)(b) after his release from custody yielded negative results. § 87(2)(b)

Witness: § 87(2)(b)

- § 87(2)(b) -old Hispanic man, 5'11" tall, 240 pounds, bald with brown eyes.

- § 87(2)(b)

Civilian Statement

§ 87(2)(b) was interviewed at the CCRB on October 24, 2013 (encl. 10A-G).

On August 16, 2013, at approximately 8:58 a.m., § 87(2)(b) arrived for work at the shelter and was informed by an employee of the facility, § 87(2)(b) that police officers were beating up one of the shelter's clients. § 87(2)(b) looked through the window of a door leading into the lobby and saw approximately six uniformed officers interacting with § 87(2)(b). § 87(2)(b) was able to describe PO Beltre and PO Reichenbach and described the other four officers as white men with average builds.

§ 87(2)(b) repeatedly blinked and squinted his eyes in a manner that suggested to § 87(2)(b) that he may have been pepper-sprayed prior to § 87(2)(b)'s arrival. § 87(2)(b) saw taser prongs and wires shoot across the lobby, travelling in the direction of § 87(2)(b). § 87(2)(b) could not see who fired the taser because the officer who did so was too far to § 87(2)(b)'s left to be seen. § 87(2)(b) did not see whether the taser prongs struck § 87(2)(b). After the taser was fired at § 87(2)(b), § 87(2)(b) pulled at the chest area of his own shirt. The taser shots seemed to make § 87(2)(b) angry, but he did not appear to be physically affected by the taser. While the taser was being fired, Sgt. Cecchini got down on one knee, rubbed his left leg, and repeatedly stated "I got hit."

The officers then began to approach § 87(2)(b). § 87(2)(b) opened the door to the House Manager's office and got halfway through the door, but then officers grabbed him. § 87(2)(b) grabbed a stapler from inside the office and threw it in the direction of the officers. § 87(2)(b) did not see whether the stapler struck any officers.

The officers pulled § 87(2)(b) out of the doorway, grabbed his arms and legs, and tried to pull him to the floor. § 87(2)(b) repeatedly shoved the officers away from him, sometimes pushing back multiple officers with the swing of a single arm, and sometimes causing multiple officers, including Sgt. Cecchini, to fall to the floor. § 87(2)(b) did not punch or kick any officers.

§ 87(2)(b) saw streams of pepper spray in the air while the officers were struggling with § 87(2)(b) but he could not tell which officers discharged their pepper spray and did not see the spray hit § 87(2)(b). Officers then struck § 87(2)(b) several times with asps. § 87(2)(b) initially stated that § 87(2)(b) was hit in the head four or five times, and later stated that § 87(2)(b) was hit a total of five or six times on various parts of his body. Because there were so many officers crowded around § 87(2)(b), § 87(2)(b) only saw PO Reichenbach and a second officer, described as a white man, strike § 87(2)(b). § 87(2)(b) was struck in the right shoulder and the right side of his legs one or two times each. PO Reichenbach struck § 87(2)(b) in the head with his asp once or twice. One of the blows struck § 87(2)(b) on the top left area of his head, causing § 87(2)(b) to bleed heavily from his head and onto his shirt. § 87(2)(b) continued to shove the officers away while they hit him with batons and also began to flail his arms.

§ 87(2)(b) a maintenance worker at the shelter, then dove in the direction of § 87(2)(b)'s legs. § 87(2)(b) fell to his knees and onto the floor. § 87(2)(b) did not see any officers strike § 87(2)(b) with their asps while he was on the floor. After § 87(2)(b) was handcuffed, an officer who § 87(2)(b) identified as PO Reichenbach but was identified via investigation as Sgt. Cecchini, raised and lowered his legs several times in a manner consistent with a stomping motion. § 87(2)(b) could not see if Sgt. Cecchini's legs made contact with § 87(2)(b)'s body. PO John Diaz, described as a white or Hispanic man in his 40s, taller and thinner than Sgt. Cecchini, pushed Sgt. Cecchini and told him to get out.

Officers then picked up § 87(2)(b) and carried him outside. § 87(2)(b) then went into the lobby and observed a pool of blood approximately one foot in diameter on the floor where § 87(2)(b) had been placed on the floor. § 87(2)(b) went outside the building and observed § 87(2)(b) lying face down on the ground in handcuffs. § 87(2)(b) appeared to be hyperventilating. § 87(2)(b)'s head was covered in blood. § 87(2)(b) could not tell how many lacerations were on § 87(2)(b)'s head. § 87(2)(b) did not observe any officers use any force against § 87(2)(b) outside of the building.

Attempts to Contact Civilians

§ 87(2)(b) was scheduled for two appointments on February 6, 2014 and March 19, 2014. § 87(2)(b) missed both appointments and did not call to cancel or reschedule. To date, § 87(2)(b) has not made any attempt to contact the CCRB to provide a statement. A New York Department of Correction search conducted on August 25, 2014, confirmed that § 87(2)(b) is not currently incarcerated.

§ 87(2)(b) Between April 2, 2014 and April 22, 2014, four calls were placed to § 87(2)(b)'s listed number via a Lexis Nexis search and a message that the person dialed was not available was received on each occasion. A please call letter mailed to § 87(2)(b) on April 2, 2014, was returned under, "attempted not known, unable to forward." To date, § 87(2)(b) has not made any attempt to contact the CCRB to provide a statement. A New York Department of Correction search conducted on August 25, 2014, confirmed that § 87(2)(b) is not currently incarcerated.

NYPD Statements:

Subject Officer: SERGEANT TIMOTHY CECCHINI

- § 87(2)(b) -old white man, 6' tall, 210 pounds, with black hair and green eyes.
- Sgt. Cecchini worked from 6:52 a.m. until 2:30 p.m. on August 16, 2013. He was assigned as the Patrol Supervisor for the 75th Precinct and worked with PO John Diaz. They were assigned to marked patrol vehicle number 3539 and were in uniform.

Memo Book (Encl. 14A-C)

At 9 a.m., Sgt. Cecchini responded to an assault in progress at § 87(2)(b). The perpetrator became violent and irate, refusing to be rear cuffed. The least amount of force necessary to effect lawful arrest was used. A CED was discharged and the perpetrator removed the barbs and threw them back at Sgt. Cecchini, striking him in the left arm, causing burns. The perpetrator was ultimately rear cuffed, with OC spray and collapsible batons being used. At 10:30 a.m., Sgt. Cecchini arrived at the 75th Precinct Stationhouse. Four officers were transported to § 87(2)(b). Sgt. Cecchini had injuries to his head, left ankle and right arm and he was treated by § 87(2)(b).

Conducted Energy Device Discharge Report (Encl. 15)

According to the Conducted Energy Device (CED) Discharge Report, upon responding to an assault in progress, Sgt. Cecchini attempted to take § 87(2)(b) into custody. § 87(2)(b) became irate and began to fight Sgt. Cecchini and other responding officers. Sgt. Cecchini discharged the CED prongs into § 87(2)(b)'s back. However, § 87(2)(b) ripped out the prongs. § 87(2)(b) had to be physically subdued.

Line of Duty Injury Report (Encl. 16)

According to the Line of Duty Injury Report, Sgt. Cecchini sustained burns to his right forearm as a result of coming in contact with live wires from a CED and a sprained left ankle.

CCRB Testimony (Encl. 17A-E)

Sgt. Cecchini was interviewed at the CCRB on September 3, 2014.

On August 16, 2013, at approximately 9 a.m., Sgt. Cecchini responded to an assault in progress with a weapon at § 87(2)(b). When Sgt. Cecchini arrived, PO Reichenbach and PO Garraputa were already at the facility and were speaking with § 87(2)(b). § 87(2)(b) was either holding an icepack to his head or his hand to his head and he told Sgt. Cecchini that he had been assaulted with a metal object. He explained that his roommate, § 87(2)(b), had assaulted him and had gone upstairs to the second floor. Sgt. Cecchini did not approach § 87(2)(b) and therefore could not tell if he had any injuries.

Sgt. Cecchini and PO Diaz approached the double doors of the lobby as § 87(2)(b) was coming out. § 87(2)(b) pointed § 87(2)(b) out as the man who had assaulted him and Sgt. Cecchini instructed § 87(2)(b) to place his hands on the wall and he did so. Sgt. Cecchini asked § 87(2)(b) if he had anything he was not supposed to and told him that he would hear his side of the story after he put his hands on the wall. Sgt. Cecchini did not call § 87(2)(b) a “monkey” or an “animal” and did not hear any officer make these statements. Sgt. Cecchini began to frisk § 87(2)(b) s pockets for weapons and § 87(2)(b) pushed his hand away while saying, “Get your hands off me.”

§ 87(2)(b) removed his right hand from the wall and Sgt. Cecchini grabbed it to secure it. PO Diaz was able to place a handcuff on § 87(2)(b) s left hand and § 87(2)(b) said aloud, “It’s not going down like this.” § 87(2)(b) began to push the officers off of him and Sgt. Cecchini grabbed his arms and legs in an effort to get him to the floor. There were approximately four officers attempting to handcuff § 87(2)(b) including Sgt. Cecchini, and once the officers got § 87(2)(b) down to the floor, Sgt. Cecchini hit his head against the floor.

§ 87(2)(b) held his fists against his body and refused to give his hands. Sgt. Cecchini ordered § 87(2)(b) to give his hands and § 87(2)(b) refused. Officers began to “knee stun” § 87(2)(b) in the ribs to no avail. Sgt. Cecchini did not want to get into an “elongated battle” with § 87(2)(b) and found there was no possible way to get the other handcuff on. § 87(2)(b) stood up with the officers on top of him and started to swing around the handcuff on his left hand violently. Sgt. Cecchini instructed his officers to watch out and he and the officers attempted to push § 87(2)(b) against the wall. When that attempt was ineffective, Sgt. Cecchini yelled “taser” aloud three times as a warning to his officers and § 87(2)(b) that he was about to discharge his taser.

Sgt. Cecchini stood back approximately six to eight feet and aimed his taser at § 87(2)(b) s lower back area. Sgt. Cecchini attempted to end the situation by going up the escalating levels of force as taught to him in the Police Academy. Once the taser was discharged, § 87(2)(b) ripped the prongs out and threw them back at Sgt. Cecchini. As the taser prongs were not in a target, the taser was still cycling and Sgt. Cecchini was shocked as a result. Sgt. Cecchini reholstered his taser and he and the officers backed § 87(2)(b) into a corner. § 87(2)(b) continued to swing the handcuff on his left hand violently.

§ 87(2)(b) grabbed a basketball sized bowl of condoms and began to swing it around at the officers. § 87(2)(b) also picked up a stapler and threw it, striking PO Garraputa in the head. Sgt. Cecchini was struck with § 87(2)(b) s handcuff about the body area.

After § 87(2)(b) stopped swinging the objects, PO Reichenbach discharged his pepper spray. Sgt. Cecchini was standing on the opposite side of PO Reichenbach and did not instruct him to use his pepper spray. PO Reichenbach used his pepper spray in an x pattern, but Sgt. Cecchini did not recall if it was a continuous flow or short bursts. Sgt. Cecchini did not recall if § 87(2)(b) was facing PO Reichenbach. Sgt. Cecchini felt the effects of the spray immediately

and was unable to breathe and became teary eyed. Sgt. Cecchini did not instruct PO Reichenbach to stop using his pepper spray because he could not talk. Sgt. Cecchini stepped out of the building and called for an additional unit and called for ESU to respond to the scene.

Officers then removed their asps and began to use them against § 87(2)(b). Sgt. Cecchini does not carry an asp and did not use one during this incident. Sgt. Cecchini could not tell which officers were using their asps, but saw that § 87(2)(b) was receiving blows on the arms. Sgt. Cecchini did not observe § 87(2)(b) being struck in the head. Sgt. Cecchini attempted to dry stun § 87(2)(b) with his taser, but § 87(2)(b) had too much clothing on and was moving around too quickly.

Sgt. Cecchini assisted in bringing § 87(2)(b) to the floor a second time, and was positioned by his legs. § 87(2)(b) resisted on the floor by trying to get into a prone position and trying to get away. An officer mistook Sgt. Cecchini's leg for § 87(2)(b)'s and placed Sgt. Cecchini in an ankle lock, causing pain. Sgt. Cecchini screamed and came out from § 87(2)(b)'s legs. § 87(2)(b)'s arms were not behind his back and were still free.

Sgt. Cecchini then grabbed onto a dual metal detector/object screening machine and began to "foot stun" § 87(2)(b)'s left shoulder. Sgt. Cecchini aimed the "foot stuns" to the back of § 87(2)(b)'s shoulder. § 87(2)(b) was moving around at this time. Sgt. Cecchini's intent in using the "foot stuns" was to get § 87(2)(b)'s other arm to "pop out" and become available to be handcuffed. Sgt. Cecchini could not tell if the "foot stuns" were making contact with § 87(2)(b)'s head as he was visually impaired and disoriented from the pepper spray in his eyes and his view was obstructed from the protruding machine he was holding onto. Sgt. Cecchini could not differentiate § 87(2)(b)'s head from his shoulders. Sgt. Cecchini did not intend to strike § 87(2)(b) in the head.

Sgt. Cecchini did not recall how many times he "foot stunned" § 87(2)(b) but stated that he did so until he gained compliance. Sgt. Cecchini was grabbed by another officer who said, "He's done," meaning § 87(2)(b) had given up. No officer told Sgt. Cecchini, "Get off of him" or "You could kill him." After § 87(2)(b) was finally placed in handcuffs, Sgt. Cecchini went outside and notified his Integrity Control Officer, his duty captain and checked that his officers were okay. He also called for an ambulance.

ESU arrived at the scene, but Sgt. Cecchini did not observe any interaction between them and § 87(2)(b) as he was being tended to by EMS personnel. Sgt. Cecchini and the officers became "aid givers" to § 87(2)(b) and sat him in a chair and made sure he got oxygen, as the whole room had been enveloped in OC spray. § 87(2)(b) began to kick again but Sgt. Cecchini was not involved in restraining him. § 87(2)(b) was then taken out and transported to the hospital along with several officers.

Officers sustained shoulder injuries, back injuries and one officer went Line of Duty as a result of this incident. Sgt. Cecchini sustained a strained leg, burns to the arm, abrasions to the head, and a massive headache. § 87(2)(b) was bleeding from the chin, and had sustained a nasty cut. Sgt. Cecchini knew that § 87(2)(b) had head injuries but believed that any blood coming from his head had been a result of the OC spray exacerbating the cut to his chin. Sgt. Cecchini did not see how § 87(2)(b)'s head injuries were sustained. Sgt. Cecchini did not see how the injury, which required staples to the back of § 87(2)(b)'s head, was caused. Sgt. Cecchini confirmed that § 87(2)(b) did not have staples in his head when he interacted with him.

Sgt. Cecchini has seen video footage of this incident sometime in June 2014 when he was interviewed by the Internal Affairs Bureau.

After viewing video footage at the CCRB, Sgt. Cecchini confirmed the following: At 8:52:57 a.m., Sgt. Cecchini was engaged with § 87(2)(b) with just his hands. Shortly after, Sgt. Cecchini could not identify the object that § 87(2)(b) threw across the metal detector. At 8:53:40 a.m., Sgt. Cecchini was getting shocked and he subsequently exited the building at 8:54:00 a.m.

From 8:54:14 to 8:54:17. Sgt. Cecchini stated he was trying to dry stun § 87(2)(b). Sgt. Cecchini mentioned that he was getting struck by the officers' asps off camera, causing blunt force trauma to his body.

At 8:55:11 a.m., Sgt. Cecchini was ankle locked by an officer, causing him to sprain his ankle. From 8:55:21 to 8:55:22, § 87(2)(b) was moving forward toward the dual metal detector/object screener. Sgt. Cecchini pointed to the protrusion which obstructed his view. At 8:55:23, Sgt. Cecchini could not tell where his foot was in regards to § 87(2)(b)'s body, stating that it was about the shoulder to head area. When an officer grabs Sgt. Cecchini, he is saying, "He's done," referring to § 87(2)(b). Additional officers grabbed § 87(2)(b) to help him regain his balance.

Sgt. Cecchini stated that the purpose of the "shoulder stun" was to "disorientate" and to prevent § 87(2)(b) from moving. He stated it was done in short bursts to the green zone, which excludes the head and groin. Sgt. Cecchini also stated that § 87(2)(b)'s arms were free as he was engaging in the shoulder stuns.

Subject Officer: POLICE OFFICER ALFRED REICHENBACH

- § 87(2)(b) -old white man, 5'11" tall, 210 pounds, bald with blue eyes.
- PO Reichenbach worked from 7:05 a.m. until 11 a.m. on August 16, 2013. He was assigned to Sectors A and G for the 75th Precinct and worked with PO Gregory Garraputa. They were assigned to marked patrol vehicle number 3927 and were in uniform.

Memo Book

At 8:45 a.m., there was an assault in progress at § 87(2)(b). PO Reichenbach arrived at 8:50 a.m. At 9:15 a.m., a crime arrest was made. The perpetrator violently resisted arrest, causing injuries to multiple officers. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Line of Duty Injury Report

According to the Line of Duty Injury Report, PO Reichenbach sustained an injury to his right leg and left shoulder while wrestling a violent individual to the ground.

CCRB Testimony

PO Reichenbach was interviewed at the CCRB on July 10, 2014. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

PO Reichenbach did not hear Sgt. Cecchini call § 87(2)(b) a "monkey" or an "animal." PO Reichenbach approached § 87(2)(b), grabbed his left arm and attempted to place it behind his back. Eventually, § 87(2)(b) and approximately six to eight officers fell to the floor. PO Reichenbach landed on his left shoulder, which resulted in it being sprained and separated.

§ 87(2)(b) was able to stand himself up and Sgt. Cecchini removed his taser and discharged it. § 87(2)(b) removed the prongs from his skin and threw them back at Sgt. Cecchini. § 87(2)(b) moved around the lobby in an effort to get away from the officers. PO Reichenbach removed his can of pepper spray and sprayed one continuous flow at § 87(2)(b)'s head. PO Reichenbach nearly emptied his whole can of pepper spray. PO Reichenbach did not recall how far away he was when he sprayed § 87(2)(b).

PO Reichenbach's intention in discharging his pepper spray was because § 87(2)(b) had been resisting and the officers could not get him under arrest. PO Reichenbach had aimed his pepper spray at § 87(2)(b)'s head and did not believe he had sprayed him in the back. The pepper

spray did not have any effect on § 87(2)(b) but had affected the vision and breathing of PO Reichenbach as well as the other officers in the vicinity.

§ 87(2)(b) picked up a standing metal fan and began to swing it from side to side. PO Reichenbach, as well as other officers, swung their asps at § 87(2)(b) and attempted to smack the fan out of § 87(2)(b)'s hands. PO Reichenbach struck § 87(2)(b) in the arms, legs and side an unknown amount of times with his asp. PO Reichenbach did not strike § 87(2)(b) in the head with his asp and did not observe any other officer do so.

PO Reichenbach used his asp in a sideways, sweeping motion and did not strike § 87(2)(b) in an up and down stabbing motion, nor did he observe any other officer do so. § 87(2)(b) reacted to being hit and moved around, but PO Reichenbach did not recall seeing any officer's asp incidentally make contact with his head at any point.

§ 87(2)(b) was taken to the floor and tucked his hands under his chest and did a pushup with the officers on top of him. PO Reichenbach was positioned by § 87(2)(b)'s waist and legs. § 87(2)(b) kicked his feet and flailed his legs. PO Reichenbach heard Sgt. Cecchini's taser and believed that § 87(2)(b) was dry stunned, but did not observe this.

PO Reichenbach did not observe Sgt. Cecchini stomp on § 87(2)(b)'s head during the incident, but stated that he did upon viewing video footage during his interview with the Internal Affairs Bureau. PO Reichenbach did not observe any officer push Sgt. Cecchini off of § 87(2)(b) or tell Sgt. Cecchini, "Get off of him" or "You could kill him."

§ 87(2)(b) was eventually handcuffed and ESU arrived and placed § 87(2)(b) in a bag. § 87(2)(b) was bleeding from his head, but PO Reichenbach did not see how § 87(2)(b) sustained the injuries to his head.

PO Reichenbach went to § 87(2)(b), § 87(2)(b) PO Reichenbach went Line of Duty from August 17, 2013 until September 11, 2013.

After viewing video footage, PO Reichenbach had nothing to add to his testimony. PO Reichenbach was shown the footage of him pepper-spraying § 87(2)(b) and stated that it appeared he had sprayed § 87(2)(b) in the side of his head. PO Reichenbach stated that he continued to spray § 87(2)(b) in the back of the head as he was turned in order to create a cloud around him to "knock the wind out of him." When shown the part of the video where he appears to strike § 87(2)(b) with his asp near the head area, PO Reichenbach stated that he struck § 87(2)(b) in the arm and was aiming at § 87(2)(b)'s shoulder. PO Reichenbach could not identify the officer using their asp in an up and down stabbing motion.

Witness Officer: POLICE OFFICER JOHN DIAZ

- § 87(2)(b)-old Hispanic man, 5'10" tall, 205 pounds, with brown hair and brown eyes.
- PO Diaz worked from 7:05 a.m. until 3:40 p.m. on August 16, 2013. He was assigned as the Sergeant's Operator for the 75th Precinct and worked with Sgt. Cecchini. They were assigned to marked patrol vehicle number 3539 and were in uniform.

Memo Book

At 8:45 a.m., PO Diaz responded to an assault in progress on Blake Avenue and arrived at 9 a.m. PO Diaz resumed patrol at 9:45 a.m. after an arrest was made. The perpetrator violently resisted. Force was used and PO Diaz used his collapsible baton and fists to subdue the perpetrator.

CCRB Testimony

PO Diaz was interviewed at the CCRB on June 23, 2014.

§ 87(2)(g)

PO Diaz did not hear Sgt. Cecchini call § 87(2)(b) a “monkey” or an “animal.” § 87(2)(b) began to flail his arms and PO Diaz, Sgt. Cecchini, PO Reichenbach and PO Garraputa attempted to handcuff § 87(2)(b). The officers were able to get § 87(2)(b) to the floor and PO Diaz got one handcuff on § 87(2)(b). § 87(2)(b) was still able to stand up. Commands were given to § 87(2)(b) to stop resisting and to stop fighting. § 87(2)(b) was then tasered by Sgt. Cecchini as no other methods to subdue § 87(2)(b) were effective.

The taser was not effective and § 87(2)(b) ripped the prongs out from his body and threw them back at Sgt. Cecchini, who was shocked on one of his arms. § 87(2)(b) threw a stapler across the room and it nearly hit an officer. § 87(2)(b) also began swinging a metal fan around violently.

PO Diaz removed his asp as he was in fear for his life as the incident presented a potentially deadly situation. PO Diaz did not recall where on § 87(2)(b)'s body he struck him. PO Diaz did not recall using his asp in an up and down stabbing motion. PO Diaz did not observe any officer strike § 87(2)(b) in the head with their asp.

PO Diaz did not see which officer discharged their pepper spray, but his vision was affected by it. § 87(2)(b) flailed his arms, attempted to stand up and kicked his legs. Additional units arrived and became involved in subduing § 87(2)(b).

During the handcuffing, PO Diaz pushed Sgt. Cecchini off of § 87(2)(b) as Sgt. Cecchini was in the way of § 87(2)(b)'s hands, which were out by § 87(2)(b)'s side. PO Diaz did not see what Sgt. Cecchini was doing when he pushed him off of § 87(2)(b). § 87(2)(b) did not observe Sgt. Cecchini stomp on § 87(2)(b)'s head. PO Diaz did not hear any officer tell Sgt. Cecchini, “You could kill him” or “Get off of him.”

PO Diaz did not recall observing ESU interact with § 87(2)(b). § 87(2)(b) had injuries and PO Diaz saw blood at the scene, but PO Diaz did not recall what § 87(2)(b)'s injuries were or how they were sustained. PO Diaz recalled that some officers were injured but did not recall specific injuries.

PO Diaz saw video footage of the incident when he was interviewed by IAB and again during his CCRB interview and added that while officers are striking § 87(2)(b) with their asps, PO Diaz could not identify himself in the video. PO Diaz was unsure if he was the officer seen in the video swinging his asp in an up and down motion. PO Diaz did not recall using his asp in that motion but stated that it was something that was permissible as he was taught it in the police academy.

When the section of the video where PO Diaz pushed Sgt. Cecchini appears, PO Diaz stated that he did not push Sgt. Cecchini off of § 87(2)(b) because Sgt. Cecchini's foot was in an up and down motion and reiterated that Sgt. Cecchini was in the way of § 87(2)(b)'s hands, which could not be seen in the video.

NYPD Documents

Complaint Reports and Arrest Reports (Encl. 28A-B, 30A-B, 32A-B, 34A-B, 36A-B, 38A-C and 38 D-F)

According to the multiple complaint reports and arrest reports generated in regard to this incident, § 87(2)(b) allegedly punched and kicked § 87(2)(b) in the head multiple times and picked him up and threw him down. § 87(2)(b) also alleged that § 87(2)(b) hit him in the back of the head with a metal air freshener can. § 87(2)(b) also injured several officers in the ensuing physical struggle during this incident. § 87(2)(b) was charged with assault and assaulting an officer.

Medical Treatment of Prisoner Report (Encl. 42)

According to the medical treatment of prisoner report, § 87(2)(b) sustained multiple abrasions, one laceration to his head and face. A follow up appointment was made for five to ten days later to remove the staples and sutures.

Event #§ 87(2)(b) (Encl. 51)

According to the event report, at 8:44 a.m., there was an aided call regarding a black male, 6'5" tall, wearing a white shirt and blue pants. A § 87(2)(b)-old male was injured. The 75th Precinct Patrol Supervisor requested ESU to the scene and the male was bagged by ESU. The male was escorted to § 87(2)(b).

75th Precinct Command Log Entry (Encl. 53)

§ 87(2)(b)'s arrest on August 16, 2013 was entered into the command log at 2:35 p.m. PO Russ was assigned the arrest. It is noted that § 87(2)(b) received stitches to his right eye and staples to the back of his head.

Other Evidence

§ 87(2)(b) Investigation

Between August 16, 2013 and August 23, 2013, an investigation was conducted by the § 87(2)(b). The following witness statements were obtained:

- On August 16, 2013, § 87(2)(b) provided a written statement. He corroborated § 87(2)(b)'s allegation that Sgt. Cecchini stomped on his head. § 87(2)(b) also noted that § 87(2)(b) stated to him at § 87(2)(b) that an officer called him a "monkey."
- On August 16, 2013, § 87(2)(b) provided a written statement. She corroborated § 87(2)(b)'s allegations that he was tasered while on the floor and that Sgt. Cecchini stomped on his head.
- On August 16, 2013, § 87(2)(b) provided a written statement. He corroborated § 87(2)(b)'s allegation that he was struck in the head with officer's asps.
- On August 16, 2013, § 87(2)(b) provided a written statement. He stated that he observed § 87(2)(b) being "beaten up" by officers and corroborated § 87(2)(b)'s allegation that he was tasered.
- On August 20, 2013, § 87(2)(b) provided a statement. She corroborated § 87(2)(b)'s allegations that he was tasered, pepper-sprayed, and that Sgt. Cecchini stomped on his head approximately eight times.
- On August 22, 2013, § 87(2)(b) provided a written statement. He corroborated § 87(2)(b)'s allegations that he was tasered, pepper-sprayed and that Sgt. Cecchini stepped on him as he was handcuffed.
- On August 23, 2013, § 87(2)(b) provided a statement. He corroborated § 87(2)(b)'s allegations that he was pepper-sprayed and tasered.

Arrest for Incident and Disposition (Encl.57)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings (Encl. 58)

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of May 2, 2014, six months after the filing deadline, with regard to the incident.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History (Encl. 3)

- This is the first CCRB complaint filed by § 87(2)(b)

Subject Officers CCRB History

- Sgt. Cecchini has been a member of the service for seven years and there are no substantiated CCRB allegations against him.
- PO Reichenbach has been a member of the service for ten years and there are two substantiated CCRB allegations against him.
 - In CCRB case number 201012121, frisk and search allegations were substantiated against PO Reichenbach. The CCRB Board recommended charges and the NYPD's disposition was instructions.
- PO Diaz has been a member of the service for four years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officers

- Sgt. Cecchini was identified via investigation as the officer who verbally interacted with § 87(2)(b). § 87(2)(b) Sgt. Cecchini also confirmed using his taser against § 87(2)(b) and foot stunning him. § 87(2)(g)
- PO Reichenbach acknowledged discharging his pepper spray against § 87(2)(b) § 87(2)(g)
- While § 87(2)(b) said that Sgt. Cecchini, PO Diaz and PO Beltré hit him with their asps, the investigation confirmed that Sgt. Cecchini did not use an asp during this incident. In addition, the surveillance footage displayed multiple officers using their asps against § 87(2)(b). It could not be determined from the video which officers struck § 87(2)(b) in the head with their asps. § 87(2)(g)
- PO Diaz acknowledged striking § 87(2)(b) with his asp. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A- Offensive Language: Sgt. Timothy Cecchini made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) alleged that as he was approached by Sgt. Cecchini and PO Diaz, Sgt. Cecchini called him a “monkey” and an “animal.” Sgt. Cecchini contends he approached § 87(2)(b) and began to frisk him for weapons. He denied calling § 87(2)(b) a “monkey” or an “animal” and PO Diaz did not hear Sgt. Cecchini make either of these statements. Surveillance footage of the incident did not contain any audio.

§ 87(2)(g)

Allegation B- Force: Sgt. Timothy Cecchini tasered § 87(2)(b)

Allegation C- Force: PO Alfred Reichenbach used pepper spray against § 87(2)(b)

Allegation E- Force: PO John Diaz struck § 87(2)(b) with an asp.

It is undisputed that Sgt. Cecchini tasered § 87(2)(b) PO Reichenbach pepper-sprayed § 87(2)(b) and that PO Diaz struck him with an asp.

As evidenced in the surveillance footage of this incident, § 87(2)(b) was violently resisting the officers' attempts to apprehend him. Though § 87(2)(b) denied resisting arrest, the video captured him pushing officers off of him and throwing punches after the officers' attempt to take him to the floor was unsuccessful. Sgt. Cecchini confirmed that he tased § 87(2)(b) after verbal commands and physical force were unsuccessful in gaining his compliance. Sgt. Cecchini yelled, "taser" aloud as a warning to § 87(2)(b) and the officers that he was about to discharge his taser, which was corroborated by PO Reichenbach. PO Diaz did not recall if Sgt. Cecchini issued any warnings prior to discharging his taser.

PO Reichenbach acknowledged pepper-spraying § 87(2)(b) after he threw the taser prongs back at Sgt. Cecchini after he was tased. PO Reichenbach sprayed one continuous flow of pepper spray at § 87(2)(b)'s head. PO Reichenbach's intention in discharging his pepper spray was to create a cloud around § 87(2)(b) and get him to give up.

PO Diaz acknowledged using his asp against § 87(2)(b) to end the situation, but did not recall where on § 87(2)(b)'s body he struck him. PO Diaz denied striking § 87(2)(b) in the head with his asp.

The use of a taser is permitted where general physical force would be permitted. A taser device may be used against individuals who are actively resisting or exhibiting active physical aggression. An appropriate warning should be issued to the potential subject of the taser. NYPD Patrol Guide Procedure 212-117 (encl. 1A-I). Officers are authorized to use pepper spray to effect an arrest, or establish physical control of a subject resisting arrest. NYPD Patrol Guide Procedure 212-95 (encl. 1I-L). Officers are permitted to use the minimum amount of force necessary to overcome resistance and take into custody a violent or resistant individual. NYPD Patrol Guide Procedure 203-11 (encl. 1M-N).

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Allegation D- Force: Officers struck § 87(2)(b) with asps.

It is undisputed that § 87(2)(b) was struck with asps by numerous officers. As noted above, he was violently resisting. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(b) alleged that during the physical struggle, he was struck numerous times in the head and across the orbital bone of his right eye by officers he could not see. § 87(2)(b) observed PO Reichenbach strike § 87(2)(b) in the head one or two times. § 87(2)(b) sustained a laceration, which required staples, to the back of his head and received stitches near his right eye as a result of this incident. § 87(2)(b)'s medical records could not be requested as he did not sign HIPAA medical release forms. § 87(2)(b)'s arrest photo showed the staples in the back of his head and the laceration and stitches to his right eye.

PO Reichenbach and PO Diaz denied striking § 87(2)(b) in the head with their asps. Both officers stated that they had aimed for § 87(2)(b)'s shoulders and arms when striking him with their asps. Sgt. Cecchini does not carry an asp and did not observe any officer strike § 87(2)(b) in the head.

Surveillance footage of this incident displays numerous officers, including PO Reichenbach and PO Diaz, striking § 87(2)(b) with their asps. However, it is unclear from the video whether any officer's asp makes contact with § 87(2)(b)'s head. § 87(2)(b) is off camera for a large portion of the time when he was being struck with asps, and the investigation could not determine where the officers' blows were received on § 87(2)(b)'s body.

§ 87(2)(g)

Allegation F- Force: Sgt. Timothy Cecchini used physical force against § 87(2)(b)

It is undisputed that Sgt. Cecchini's right foot made contact with the shoulder to head area of § 87(2)(b) multiple times. Sgt. Cecchini also stated that this force occurred prior to § 87(2)(b) being handcuffed.

As evidenced in the surveillance footage, Sgt. Cecchini stomped on § 87(2)(b) in an up and down motion with his right foot approximately nine times in the shoulder to head area. From the video, it appears that § 87(2)(b) is not handcuffed at the time when Sgt. Cecchini stomps on him.

Sgt. Cecchini stated that he "foot stunned" § 87(2)(b) in the left shoulder until he gained compliance and could not recall the amount of times he did so. Sgt. Cecchini's intention was to get § 87(2)(b)'s other arm to become free so that he could be handcuffed. Sgt. Cecchini aimed the stuns at § 87(2)(b)'s shoulder. Sgt. Cecchini was "visually impaired" due to the effects of the pepper spray and a protruding section of the metal detector/object screener he was holding onto and could not tell if the stuns were making contact with § 87(2)(b)'s shoulder or his head, as he could not differentiate between the two.

Officers are permitted to use the minimum amount of force necessary to overcome resistance and take into custody a violent or resistant individual. NYPD Patrol Guide Procedure 203-11.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date